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AUG 26 2004

OFFICE OF PETITIONS

In re Application of :
Yu Zheng :
Application No. 10/759,847 : DECISION DISMISSING PETITION
Filed: January 15, 2004 :
Attorney Docket No. :
PAT1192CIP3DIVCON :
Title of Invention: Collapsible :
Structures Having Overlapping :
Support Loops :

This is a decision on the petition filed May 18, 2004, requesting in effect, that a Notice of Omitted Parts in a Nonprovisional Application ("Notice") mailed April 21, 2004, be withdrawn.

The petition is dismissed.

The application was filed on January 15, 2004. However, on April 21, 2004, the Office of Initial Patent Examination (OIPE) mailed the "Notice" stating that the application had been accorded a filing date of January 15, 2004 and advising applicant that figure 10 as described in the specification appeared to have been omitted.

In response, on May 18, 2004, applicant filed the present petition and a copy of applicant's postcard receipt acknowledging receipt of thirty-eight (38) sheets (Figs. 1-24) of drawings on January 15, 2004. Additionally, applicant submitted a copy of thirty-nine (39) sheets of drawings. Petitioner argues figures 1-24 were submitted on January 15, 2004.

A review of the record shows that thirty-eight (38) sheets of drawings were filed on January 15, 2004 and are presently in the file. Thus the file shows no sheets of drawings containing figure 10 was filed on January 15, 2004.

It is noted that the postcard refers to thirty-eight (38) sheets of drawings but the official record clearly shows that the 38 sheets of drawings did not contain figure 10. Assuming arguendo that applicant's postcard receipt could be said to constitute *prima facie* evidence that figure 10 was received in the Office on January 15, 2004, the evidence is rebuttable, not conclusive. In

this case the evidence is rebutted by the fact that applicant has submitted one sheet of drawing which was not present on January 15, 2004. Petitioner states figure 10 was present amongst the 38 sheets filed on January 15, 2004. Petitioner has submitted thirty-nine (39) sheets of drawings which includes figure 10 with the instant petition. However both the postcard and the application transmittal sheet only itemize 38 sheets of drawings. A comparison of 39 sheets of drawings submitted with the instant petition shows they mirror the drawings submitted on January 15, 2004 except figure 10 is not present thus only 38 sheets of drawings were submitted. The facts and evidence at hand rebut the postcard receipt to the extent that figures 1-24 were not submitted.

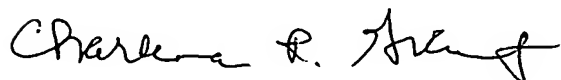
Since the petition does not request that the application be accorded the date of receipt of the drawing containing figure 10 as the filing date, the application will be processed with a filing date of January 15, 2004, using the thirty-eight (38) sheets of drawings filed on that date.

An amendment canceling references to figure 10 in the specification should be filed prior to the first Office action in order to avoid further delays in the examination of the application.

The drawing containing figure 10 submitted on May 18, 2004 will not be entered.

The application will then be returned to the Office of Initial Patent Examination for further processing with a filing date of January 15, 2004, using the 38 sheets of drawings supplied on January 15, 2004.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-0251.



Charlema R. Grant
Petitions Attorney
Office of Petitions